

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

EAGLE RAY ELECTRIC COMPANY

and

Cases 14-CA-29685  
and 14-RC-12739

INTERNATIONAL BROTHERHOOD OF  
ELECTRICAL WORKERS, LOCAL #1, AFL-  
CIO

**MOTION TO SEVER CASES, APPROVE WITHDRAWAL REQUEST  
IN CASE 14-CA-29685 AND DISMISS THE COMPLAINT**

Pursuant to Sections 102.9 and 102.24 of the Rules and Regulations of the National Labor Relations Board, Counsel for the General Counsel (General Counsel) moves that Case 14-RC-12739 be severed from Case 14-CA-29685; that the request of the International Brotherhood of Electrical Workers, Local #1, AFL-CIO (the Union) to withdraw the charge in Case 14-CA-29685 be approved, and that the Board dismiss the Complaint in Case 14-CA-29685. In support of this motion, General Counsel states as follows:

1. Case 14-RC-12739 is the representation case which resulted in the Union's certification to represent a unit of employees of Eagle Ray Electric Company (the Employer). The election was held on October 17, 2008, and the original certification was issued by the two-member Board in February 2009. Case 14-CA-29685 is a refusal-to-bargain case in which the Employer is contesting the Union's certification. The two-member Board issued its original Decision and Order in that case granting General Counsel's motion for summary judgment on May 29, 2009.

2. On August 23, 2010, the Board issued a Decision, Certification of Representative, and Notice to Show Cause in Cases 14-CA-29685 and 14-RC-12739.

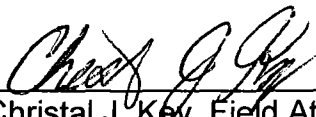
*Eagle Ray Electric*, 355 NLRB No. 111 (2010). In that decision, the Board consolidated Case 14-RC-12739 with Case 14-CA-29685 in order to efficiently resolve issues related to the Supreme Court's decision in *New Process Steel, P.P. v. NLRB*, 130 S.Ct. 2635 (2010). Also in that decision, the Board once again certified the Union as the representative of the Employer's employees in Case 14-RC-12739. No documents were filed by any party in response to the Board's Notice to Show Cause.

3. By letter dated October 14, 2010, the Union requested withdrawal of Case 14-CA-29685.<sup>1</sup> In accordance with the Union's request and in order to leave the Board's Certification of Representative in Case 14-RC-12739 undisturbed, Case 14-RC-12739 should be severed from Case 14-CA-29685.

4. The Union has requested withdrawal of Case 14-CA-29685 because the Employer is no longer operating and has no assets. Moreover, on August 25, 2010, the Missouri Secretary of State administratively dissolved or revoked the Employer's corporate status.

WHEREFORE, for the reasons set forth above, Counsel for the General Counsel respectfully moves for the severance of these cases, approval of the withdrawal request and dismissal of the complaint in Case 14-CA-29685.

Dated at St. Louis, Missouri, this 21<sup>st</sup> day of October 2010.

  
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Christal J. Key, Field Attorney  
National Labor Relations Board  
Region 14  
1222 Spruce Street, Room 8.302  
St. Louis, MO 63103-2829

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<sup>1</sup> A copy of the withdrawal request is attached as Exhibit A.

CHARLES A. WERNER  
CHRISTOPHER T. HEXTER\*  
MARILYN S. TEITELBAUM\*  
JAMES I. SINGER\*  
SALLY E. BARKER  
ARTHUR J. MARTIN\*  
DEAN L. CHRISTIANSON\*  
RHONA S. LYONS  
LORETTA K. HAGGARD\*  
GEORGE O. SUGGS  
CHRISTOPHER N. GRANT\*  
NANCY M. WATKINS  
COLLEEN JOERN VETTER\*  
CLARE R. BEHRLE\*  
MATTHEW B. LEPPERT\*  
J. CHRISTOPHER CHOSTNER\*  
PATRICK K. SHINNERS\*  
ROCHELLE G. SKOLNICK\*

## SCHUCHAT, COOK & WERNER

ATTORNEYS AT LAW

THE SHELL BUILDING  
1221 LOCUST STREET  
SUITE 250  
SAINT LOUIS, MISSOURI 63103-2364

(314) 621-2626

Fax: (314) 621-2378

www.schuchatcw.net

STANLEY R. SCHUCHAT  
(1914 - 1979)

JAMES K. COOK  
OF COUNSEL

\*also licensed in Illinois



October 14, 2010

**VIA FAX (314) 539-7794 and US MAIL**

Ms. Christal Key  
Field Attorney  
National Labor Relations Board, Region 14  
1222 Spruce Street, Room 8.302  
St. Louis, Missouri 63103

Re: Eagle Ray Electric Company  
Case 14-CA-29685 (Test of cert. refusal to bargain case)  
Case 14-CA-29785 (Effects bargaining case)

Dear Ms. Key:

This law firm represents International Brotherhood of Electrical Workers, Local 1. The Union respectfully requests to withdraw without prejudice the ULP charges in the above-captioned cases.

By decision dated August 23, 2010, the Board (three persons) certified Local 1 as the exclusive representative of the Employer's electrical employees retroactive to the date of the election. The Employer is no longer operating and the Union does not believe that there are any assets to pay any amounts due. If, however, the Union discovers that the Employer has re-opened or the Employer re-opens in the future, the Union's position is that it represents the Employer's employees, and the Union reserves the right to file a new charge to enforce this position.

Thank you for your cooperation in this matter.

Sincerely,

Chris Grant

cc: Frank Jacobs, Local 1, via fax  
Bob Taylor, Local 1, via fax

CERTIFICATE OF SERVICE

Pursuant to the National Labor Relations Board's Rules and Regulations, Section 102.114, a true and correct copy of the foregoing Counsel for the General Counsel's Motion to Sever Cases, Approve Withdrawal Request in Case 14-CA-29685 and Dismiss the Complaint was served via electronic mail, on this 21st day of October 2010, upon the following:

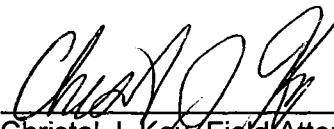
Mr. James N. Foster, Jr., Attorney  
McMahon Berger  
2730 North Ballas Road, Suite 200  
St. Louis, MO 63131-3039  
E-mail: [foster@mcmahonberger.com](mailto:foster@mcmahonberger.com)

Mr. Christopher N. Grant, Attorney  
Schuchat, Cook & Werner  
The Shell Building, Second Floor  
1221 Locust Street  
St. Louis, MO 63103-2364  
E-mail: [cng@schuchatcw.com](mailto:cng@schuchatcw.com)

Pursuant to the National Labor Relations Board's Rules and Regulations, Section 102.114, a true and correct copy of the foregoing Counsel for the General Counsel's Motion to Sever Cases, Approve Withdrawal Request in Case 14-CA-29685 and Dismiss the Complaint was served via regular mail, on this 21st day of October 2010, upon the following:

Mr. Kenneth D. Gilbert, President  
Eagle Ray Electric Company  
P.O. Box 1508  
St. Joseph, MO 64502

Mr. Larry Palazzolo  
Director of Membership Development  
Local 1, International Brotherhood of  
Electrical Workers, AFL-CIO  
5850 Elizabeth Avenue  
St. Louis, MO 63110

  
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Christal J. Key, Field Attorney  
National Labor Relations Board  
Region 14  
1222 Spruce Street, Room 8.302  
St. Louis, Missouri 63103-2829